

REMARKS

The foregoing amendment cancels Claims 21-24 and 30. The subject matter of Claims 21-24 is being prosecuted in a divisional application being filed concurrently with the filing of this Amendment. Claim 30 is being cancelled outright.

Claim Objection

Claim 30 has been objected to under 37 C.F.R. § 1.75(c) as being improperly dependent from Claim 17. As noted above, Applicants are cancelling Claim 30.

Rejection over Bassam US Patent No. 5,849,264

In paragraph 5 of the Office Action, Claims 17-19, 25-28, 30 and 34-36 have been rejected as obvious over Bassam US Patent No. 5,849,264. In previous office actions, Bassam was cited in support of an anticipation rejection under 35 USC § 102(b) as well as in support of an obviousness rejection. The Examiner's remarks continue to be focused primarily on anticipation and Applicants again urge that Bassam would not properly function as an indication of either anticipation or obviousness. Applicants also wish to point out that the Examiner's reference to Applicants' component (d) as comprising diethyl orthophthalate is not longer appropriate; group (IV) has been deleted from component (d).

One of the principal features of Applicants' claimed invention is the ratio of component (d) to component (b). In Applicants' claims, the maximum amount of component (b) in the subject compositions is 1.0% and the maximum amount of component (d) is 10% of the amount of component (b). Thus, in terms of the entire composition, component (d) is present at a maximum amount of only 0.1%. The Bassam reference discloses certain substances qualifying as Applicants' component (b) and certain substances qualifying as Applicants' component (d). These substances – along with many others – are lumped together in the Bassam reference as "solvents". Applicants' claims are directed to methods for enhancing the unipolar charge imparted to droplets of an emulsion when said emulsion is discharged from an aerosol spray device. The key to enhancing the unipolar charge is the choice of component (b), the choice of component (d) and, very importantly, the ratio of (d) to (b). The Bassam reference does not

recognize any particular properties as possibly resulting from a combination of "solvents" falling within the parameters of Applicants' component (b) and Applicants' component (d). There is no combination of "solvents" disclosed in the Bassam reference that would qualify as a mixture of Applicants' components (b) and (d). Needless to say, there is no indication of any ratio between said components. In these circumstances, Applicants' claims would not have been obvious over Bassam. As far as Applicants showing the criticality of the particular (d)-to-(b) ratio, there is no need to provide evidence of such criticality since the combination itself is not disclosed in the reference.

Rejection over Stopper US Patent No. 4,536,323

In paragraph 6 of the Office Action, the Examiner rejects Claims 17-19, 25-28, 30, 34 and 35 as obvious over Stopper US Patent No. 4,536,323. With respect to the Stopper reference, it is again respectfully pointed out that, whilst Stopper is concerned with methods for reducing the flammability of aerosols, Applicants are concerned with enhancing the electrostatic charge imparted to emulsion droplets discharged from an aerosol spray device. Previous rejections over the Stopper reference have been for anticipation under 35 USC § 102(b) as well as for obviousness. The anticipation rejection has now been dropped, but Applicants again submit that Stopper is not a proper indication of obviousness. The Examiner acknowledges that Applicants have disclosed "some variation of the compositions of the reference" and asserts that "some variation of the properties [of the reference] would have been expected". He concludes with a statement that Applicants "have not shown the properties to be critical to the invention"; presumably, these "properties" are Applicants' properties. However, we are not concerned with mere properties here. Applicants have disclosed and claimed methods which have no relationship to the methods disclosed in the reference. Applicants are concerned with enhancing the electrostatic charge imparted to droplets discharged from an aerosol spray device. As indicated in paragraphs 0002-0006 of the published application, charged particles improve the effectiveness of the products contained in the spray device. Stopper, on the other hand, is concerned only with matters of safety – in particular, reducing the flammability of spray emulsion.

The Examiner states that sodium lauryl sulphate, as disclosed in the table in column 4 of the reference "would fulfill the conductivity criteria of [Applicants'] claim 17". However, there is nothing in the reference that would support this statement – either as to sodium lauryl sulphate taken alone or as to the entire composition disclosed in said table.

Rejection over Fox WO 99/21659 in view of Stopper or Bassam

In paragraph 7 of the Office Action, the Examiner has rejected all of the claims as obvious over WO 99/21659 in view of Stopper or Bassam. Unlike the other rejections, this rejection includes Claims 21-24. However, these claims have now been cancelled and therefore the following discussion will be limited to the claims remaining in this application.

In paragraph 0005 of the published application, reference is made to WO 97/28883 as describing an aerosol spray device constructed so that a unipolar charge is imparted to sprayed-out particles. The device disclosed in WO 99/21659 is similar and can be used in connection with the methods claimed in Applicants' Claims 17-20, 25-28 and 34-36. Essentially, where Applicants' claims differ from the Fox disclosure is in the contents of the aerosol spray device. As noted in paragraph 0007 of Applicants' published application, one of the features of Applicants claimed invention is that, by careful selection of the components of the composition contained in the aerosol spray device, it is possible to enhance the charge imparted liquid droplets without requiring any special features in the construction of the aerosol spray head. As previously pointed out, the content of Applicants' compositions would not have been obvious over Bassam. And, as previously pointed out, the content of Applicants' compositions would not have been obvious over Stopper because the Stopper reference is to a utility having no relationship to Applicants' utility.

The Examiner points to the paragraph of WO 99/21659 beginning at page 7, line 32. The reference indicates that changes in product formulations can effect charging levels and says that a mixture or an emulsion of hydrocarbon and water will carry a higher charge-to-mass ratio than either water alone or a hydrocarbon alone. Applicants are not claiming the broad concept that changes in formulation can influence the amount of a unipolar charge. Rather, Applicants' invention is directed to the specific concept that a combination of a non-ionic surfactant of component (b) with component (d) in a specific limited ratio will enhance unipolar charge. This

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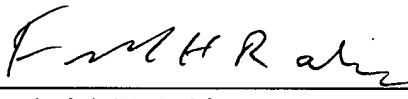
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is not disclosed in WO 99/21659 or in Bassam or in Stopper. Thus, improperly combining Fox with either Bassam or with Stopper is an improper combination and, even if combined, would not lead to Applicants' claimed methods.

CONCLUSION

In view of the foregoing amendment and these remarks, it is believed that all claims remaining in this Application are in condition for allowance. Favorable action is requested.

Respectfully submitted,



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